

REMARKS

Prior to a first Office Action in this application, Applicant requests that original claims 1-23 be canceled and new claims 24-46 be added. These amendments and new claims do not involve any new matter or objectionable changes. When the Examiner takes this application up for action, he is requested to take the foregoing into account.

These claim amendments are made to correct an error in the amendment filed September 19, 2007. That amendment presented amendments to claims 1-19, although claims 1-23 were in the case.

In response to the "Notice of Drawing Inconsistency with the Specification" of February 6, 2008, the Applicant has also amended the specification to add FIG. 11b to the "Brief Description of the Drawings."

The Applicant has also amended the specification to update the cross reference to related applications. The cross referenced cases generally refer to techniques related to layered modulation, and the art cited and arguments made in these cases may or may not be material and non-cumulative to the issue of the patentability of the claims in this application.

The Applicant will continue to endeavor to bring all material and non-cumulative information to the attention of the Examiner. However, the Examiner is encouraged to review these related cases for information and arguments that may be relevant to the patentability of the claims of the instant application.

The Applicant also hereby submits a terminal disclaimer, thus obviating the obviousness-type double patenting rejection over co-pending application serial number 10/693,135.

It is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicant's undersigned attorney.

Respectfully submitted,

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